



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAKURU
CAUSE NO. 555 OF 2014
NZYOKI NDETO YUMBWA.....CLAIMANT
v
FARM PARTS LIMITED.....RESPONDENT

RULING

1. For determination is an application dated 9 February 2017 by the Respondent seeking

1. ...

2. THAT pending the hearing and determination of this application inter-partes, this Honourable Court be pleased to issue an order of stay of execution of the judgment delivered on 6th May 2016 and any other consequential orders arising thereof.

3. THAT pending the hearing of the intended appeal, this Honourable court be pleased to issue an order of stay of execution for the judgment delivered on 6th May, 2016 and any other consequential orders arising thereof.

4. THAT the costs of this application be provided for.

2. The Claimant filed Grounds of Opposition and a Replying Affidavit in response to the application and arguments were taken on 6 March 2017.

3. It is not necessary for the Court to examine the arguments and grounds urged on the papers and orally in Court because the Respondent did not deny the Claimant's assertion that the Respondent had paid the decretal sum after proclamation/attachment.

4. As contended by the Claimant, ordering stay of execution would be an exercise in futility, the decretal sum having been paid.

5. The Court also notes that though the judgment was delivered on 6 May 2016, the instant application was only made on 9 February 2017 after the Claimant moved to execute the decree.

6. The interlude of nearly 9 months has not been explained and in the Court's view, the delay constitutes inordinate delay in the circumstances obtaining herein.

7. The Respondent's application has therefore been overtaken by events and the Court dismisses it with no order as to costs.

Delivered, dated and signed in Nakuru on this 28th day of April 2017.

Radido Stephen

Judge

Appearances

For Claimant Ms. Chepngetich instructed by Wambeyi Makomere & Co. Advocates

For Respondent Ms. Kamau instructed by Matiri, Mburu & Chepkemboi & Co. Advocates

Court Assistant Nixon